IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 794 OF 1998.

The Commissioner of Income-tax,
Bombay City-II, Bombay. ... Applicant.

V/s.

M/s Hindustan Sugar Mills Ltd. ... Respondent.

Shri A.N. Kotangale with D.A. Dubey i/b K.C.Sidhwa
for the applicant.

Ms.V.B. Patel for the respondent.

CORAM : V.C.DAGA AND A.S.AGUIAR, JJ.

DATED : 25.7.2005

P.C. :

. By this reference under section 256 of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

1. Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that the limits u/s 40(c) and not those u/s 40A(5) apply in the case of expenditure on payment of salary, provisions of perquisites and allowance in respect of assets used for his own benefit by director-employee of the company?

. Learned Counsel for the parties agreed that

the above question is answered by the judgment of this Court in the case of **C.I.T. vs.Hico Products Pvt.Ltd. (1993) 201 ITR 567 (Bom.)** in favour of the assessee. In this view of the matter, the reference is answered in the affirmative i.e. in favour of the assessee and against the revenue.

. Reference stands disposed of with no order as to costs.

(A.S.AGUIAR, J.) **(V.C.DAGA, J.)**